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TAGS: [MOPS](#) [MARR](#) [PREL](#) [IZ](#) [NL](#)

SUBJECT: IRAQ/NL: ARREST OF DUTCH MARINE STIRS POLITICAL
CONTROVERSY IN THE NETHERLANDS

Classified By: CLASSIFIED BY POLITICAL COUNSELOR MARY DALY FOR REASONS
1.5 (B AND D).

1. (C) Summary: The arrest of a Dutch marine serving in Iraq following the alleged fatal shooting of an Iraqi civilian during a December 27 looting incident has stirred up a front page political controversy in the Netherlands with leading parliamentarians, the Chief Attorney General and Justice Minister Donner all trading public accusations. The incident has damaged the morale of Dutch personnel in Iraq and cast a shadow over PM Balkenende's surprise visit to Dutch personnel in Iraq on January 7. Dutch MOD leadership has expressed support for its troops but is legally barred from involvement in the case. (Note: in the Netherlands military justice issues are handled by the Ministry of Justice, not MOD. End note.) Chief of Defense Staff VADM Kroon is furious and attempted without success to have the case dismissed. Other uniformed military and MOD working levels have expressed concern about the effect of the incident on the morale and safety of Dutch forces, and note this may also have an effect on future Dutch stabilization operations. End Summary.

Dutch Public Prosecutor Orders Marine's Arrest

2. (C) On December 27 a Dutch marine allegedly shot an Iraqi civilian during a looting incident near As Samawah in Al Muthanna Province. (Note: the Dutch have approximately 1100 personnel, mostly marines, performing stabilization operations in Al Muthanna as part of the UK Multinational Division South East. End note.) Following the incident, Dutch military police (the Royal Marechaussee) initiated an investigation. Based on the initial information provided by the Marechaussee, the public prosecutor in Arnhem ordered the marine detained and returned to the Netherlands where he was charged with murder, manslaughter or culpable homicide. The public prosecutor alleged the marine had shot the individual in the back from a great distance. The marine was held for five days and then released on January 6 by a military judge due to insufficient grounds to merit his further detention. (Note: in military justice matters, the Marechaussee, normally a regular branch of the military, reports to the Ministry of Justice instead of the MOD. Dutch civil law governs all military justice cases and a three judge military court seated in Arnhem hears all military-related cases. End note.) The marine is currently free, and a trial is expected in two to three months upon completion of the Marechaussee's investigation.

The Marine's side of the story

3. (U) After the hearing leading to the marine's release, his attorney gave his version of events. The marine, a 43-year old sergeant with commando training, was commanding the Dutch battalion's Quick Reaction Force when it was called in to assist in the December 27 incident. The alleged shooting took place on the road from Al Khidr to As Samawah when Dutch forces were trying to protect a container that had dropped off a truck from looters. A Dutch unit already present had fired several warning shots into the air to disperse between 50 and 150 looters. The marine apparently fired two warning shots, one in to the air and one into the ground to the left of the crowd. (His attorney did not rule out that one of the bullets may have accidentally ricocheted.) The marine's attorney stated it was not certain that a person was even killed in the shooting incident. According to the attorney, an individual had fallen to the ground during the incident covered with blood but the marines could not get to him. It was not until several hours later that an individual with a gunshot wound was brought to a nearby hospital. This individual, the alleged victim of the shooting, subsequently died. No autopsy was carried out and the body was interred. An interview with the marine appeared in the most popular Dutch newspaper on January 7 under the headline "I feel humiliated." The marine repeated the same account of events as his attorney, and said he was convinced he had acted in good faith and that "the safety of my marines came and comes first."

Political controversy at home

14. (C) The marine's arrest and eventual release has caused an uproar in the Dutch press as leading Dutch politicians have traded accusations. Prime Minister Balkenende was reported to have been received "coolly" during a previously scheduled January 7 visit to Dutch troops in Iraq. Meanwhile, leading MPs from the Christian Democrats, Liberals and Liberal Democrats (all members of the governing coalition) have slammed the conduct of the public prosecutor's office. They strongly criticized Chief Attorney General de Wijkerslooth for being careless with the evidence, and for making public statements comparing the investigation to one following a policeman who kills an individual in the line of duty. Christian Democrat Defense Spokesman Kortenhorst accused the public prosecutor's office of "not having thought the matter through," noting Dutch troops were doing "risky work." Liberal Democrat Defense and Foreign Policy spokesman Bakker accused the public prosecutor's office of blundering. Justice Minister Donner in turn criticized the MPs for interfering in the public prosecutor's work. Minister of Defense Kamp wrote to parliament noting the MOD was barred from taking part in the investigation. He stressed that the separation from MOD of the Marechaussee's function as an investigative body for criminal matters tied to the Ministry of Justice was the result of a 1998 report in the wake of the Srebrenica massacre. He also said the rules of engagement that Dutch forces operate under were adequate for their tasks. His deputy, State Secretary van der Knaap, expressed full support for Dutch troops but said it was good that MOD was not involved in the investigation as it had been criticized in the past for not investigating similar incidents in previous missions. Finally, Dutch papers carried quoted British MG Stewart, commander of UK MND SE, as saying "we British know you should first properly round off an investigation before you make it public. This was certainly not the best way."

Comment

15. (C) Dutch military and MOD officials are genuinely concerned about the effect on the morale of this incident on Dutch troops in Iraq, as well as the marines' willingness to use force to defend themselves and carry out their stabilization mission. A lower level official at MOD told PolMilOff on January 8 that an investigation was normal following such an incident but it was "ridiculous to have labeled the marine as a murderer." The public prosecutor's actions reflect the experience of the Netherlands following the massacre in Srebrenica in 1995 when Dutch peacekeepers were not able to prevent Serb militaries from killing thousands of Bosnian Muslims. This led to years of governmental and parliamentary inquiries (only concluded in 2002) in an attempt to assign blame for the event. If the marine is found guilty in the shooting incident, we judge it will complicate future requests for deployments of Dutch military assets.
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